

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 - - - - -
5 ADRIAN SCHOOLCRAFT,

6 Plaintiff,

7 -against- Index No.

10CIV-6005 (RWS)

8
9 THE CITY OF NEW YORK, DEPUTY CHIEF
10 MICHAEL MARINO, Tax Id. 873220,
Individually and in his Official
11 Capacity, ASSISTANT CHIEF PATROL
BOROUGH BROOKLYN NORTH GERALD NELSON,
12 Tax Id. 912370, Individually and in his
Official Capacity, DEPUTY INSPECTOR
13 STEVEN MAURIELLO, Tax Id. 895117,
Individually and in his Official
14 Capacity, CAPTAIN THEODORE LAUTERBORN,
Tax Id. 897840, Individually and in his
15 Official Capacity, LIEUTENANT JOSEPH
GOFF, Tax Id. 894025, Individually and
16 in his Official Capacity, stg. Frederick
Sawyer, Shield No. 2576, Individually
17 and in his Official Capacity, SERGEANT
KURT DUNCAN, Shield No. 2483,
18 Individually and in his Official
Capacity, LIEUTENANT TIMOTHY CAUGHEY,
19 Tax Id. 885374, Individually and in his
Official Capacity, SERGEANT SHANTEL
20 JAMES, Shield No. 3004, and P.O.'s "JOHN
DOE" 1-50, Individually and in their
21 Official Capacity (the name John Doe
being fictitious, as the true names are
22 presently unknown)(collectively referred
to as "NYPD defendants"), JAMAICA
23 HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV,
Individually and in his Official
24 Capacity, DR. LILIAN ALDANA-BERNIER,
Individually and in her Official Capacity
25 and JAMAICA HOSPITAL MEDICAL CENTER
EMPLOYEES "JOHN DOE" # 1-50, Individually

(Continued)

1 S. MAURIELLO

2 A. Yes, you hear that on the tape.

3 Q. You understand that to mean
4 that there was a time that Schoolcraft
5 was performing well and now he is not
6 performing; is that right?

7 A. Yes.

8 Q. I want to show you what's been
9 marked as the next exhibit. It's a
10 series of roll call transcripts.

11 MR. SMITH: For the record this
12 is Bates NYC 10357 through -- it's not
13 through 359 and then 10366, 10365, and
14 10350.

15 [The document was hereby marked
16 as Plaintiff's Exhibit 50 for
17 identification, as of this date.]

18 Q. So, Inspector, these are
19 transcripts of various recordings. I
20 think mostly of roll call. I believe you
21 mentioned some of these before as being
22 transcripts that you heard playing at the
23 Floyd case or during the Floyd case.

24 The first one is dated October
25 31, 2008, and there is a reference there

1 S. MAURIELLO

2 attributable to you to how you except any
3 groups to be brought in that you want
4 them cuffed, this is at the top of page,
5 and that you have overtime; and, quote, I
6 want them herded in here like New Year's
7 Eve. And that's on line 18 and 19.

8 Do you see that reference, sir,
9 on the first page?

10 A. Yes, I do.

11 Q. Is that a statement that you
12 made during a roll call about wanting
13 individuals brought in like New Year's
14 Eve?

15 A. Yes, I did.

16 Q. What did you mean when you were
17 saying "like New Year's Eve," can you
18 explain that to me?

19 A. Certain days of the year are
20 very radio backlogged. A good thing to
21 say, Halloween, Fourth of July, New
22 Year's Eve. I have to slow down when I'm
23 talking.

24 What happened is there is a
25 parade going on in Manhattan. A lot of

1 S. MAURIELLO

2 times they can't go up to the do the
3 warrant checks so it's hard to do it over
4 the radio so they have to bring the
5 people in to do the warrant checks.

6 New Year's Eve again is a very
7 violent night as is Halloween.

8 I got to go into this, the
9 whole thing.

10 We got a lot of intelligence
11 talking about Halloween. Here I got
12 intelligence from the gang division came
13 down and talked to the officers about
14 initiations they're hearing.

15 Most of these officers probably
16 I would say probably all have experience
17 on Halloween at the 81st Precinct.

18 Gang initiation going to cut
19 people in the face to get into the Bloods
20 and Crips.

21 You're hearing about knock out
22 punch. Back then it was a group doing
23 the knock out punch. Now it's one person
24 walking up to somebody and punching them
25 in the face. Back then it was groups

1 S. MAURIELLO

2 jumping one person, beat them up, and go
3 over to the next victim. That's what
4 gang heard.

5 With that community board
6 president called me up, community,
7 counsel president called me up. They
8 were all worried. The politicians, all
9 worried, Halloween, how where they were
10 getting feedback from the people in the
11 community.

12 It's a very violent night.
13 They were worried about the safe -- if
14 it's a weekday, kids coming home school
15 zones to you have to put cops out there
16 making sure they're all right coming to
17 and from. Cops out there for people
18 coming home from work the subway.
19 Transit beefs it up. Housing beefs it
20 up. This is all related.

21 When I meant herd it, if I have
22 a group if there is an arrestable
23 situation or summonsable situation, you
24 can't go up citywide go over the radio,
25 bring them in the house and do the

1 S. MAURIELLO

2 investigation in the house and run them
3 for warrants in there if they have ID.
4 If they don't have ID, you have to wait
5 for someone to come in the house to say
6 they are who they say they are and go
7 back out on the street.

8 Q. Is the reason why you can't do
9 the warrants more quickly in the ordinary
10 course is because this is a particularly
11 busy night?

12 A. Two prong, busy night and the
13 frequency they go up to is being used for
14 the Halloween parade, New Year's Eve
15 detail in Manhattan, and the Fourth of
16 July in Manhattan. They take the
17 frequency over.

18 At one time you can go up to
19 the radio and say, central, I want to do
20 a warrant check. What is your location?
21 And they will tell you 1018 or 1019. Now
22 they can't do it. They were backlogged
23 with written 911 radio runs so they bring
24 them in the house on the computer and do
25 it there.

1 S. MAURIELLO

2 A. No.

3 Q. Are you familiar with the term
4 "blue wall of silence"?

5 A. Yes.

6 Q. What is it?

7 MR. KRETZ: Objection.

8 You may answer.

9 A. I guess a book or was in the
10 paper that cops don't rat on other cops
11 which is a lie.

12 Q. What is the term blue wall of
13 silence or code of silence, what is that
14 a reference to? I want to know what your
15 understanding is; whether or not you
16 think it's a fair or accurate
17 representation?

18 A. I don't believe in the blue
19 wall of silence. If someone does
20 something wrong, you report it, that's
21 it.

22 Q. What is the blue wall of
23 silence?

24 A. Just what it says, that
25 officers won't rat out another officer or

1 S. MAURIELLO

2 won't retaliate against another officer;
3 just protect the other officer which I
4 don't agree with.

5 Q. Do you agree there is an
6 attitude within some members of the
7 service that officers shouldn't rat out
8 other officers?

9 A. I don't know.

10 Q. You don't know?

11 A. You are asking me to think
12 there is a population on this job that no
13 matter what happened, they are not going
14 to rat out another officer, I don't
15 believe that.

16 Q. I think you are characterizing
17 my question in a way that suggests it
18 unfairly so I'll rephrase the question.

19 Do you believe there are
20 pressures in the job that are systemic or
21 institutionally part of the job that
22 inhibit officers from reporting
23 misconduct that they otherwise might be
24 required to report?

25 MS. PUBLICKER METTHAM:

1 S. MAURIELLO

2 Objection.

3 MR. KRETZ: Objection.

4 You may answer.

5 A. No.

6 Q. I'm going to show you what's
7 being marked as the next exhibit, 57.

8 MR. SMITH: This was actually
9 previously marked as 22, I don't have
10 a 22. Let's mark this as 57 as well.

11 [The document was hereby marked
12 as Plaintiff's Exhibit 57 for
13 identification, as of this date.]

14 This is a two-page document NYC
15 2846 to 47. It's a letter from James
16 Brown to Steven Mauriello, dated March
17 11th, 2009.

18 Q. Have you ever seen this
19 document before?

20 A. Yes.

21 Q. When did you see it for the
22 first time?

23 A. I guess sometime in March.

24 Q. Of 2009?

25 A. Of 2009.

1 S. MAURIELLO

2 Q. What happened next?

3 A. We were outside Chief Marino
4 comes up, huddles everybody up, gets an
5 update. At the time the landlord the
6 husband and wife were there talking.
7 They gave a key I think to Captain
8 Lauterborn and discussing what was going
9 on. They were pretty adamant that
10 Officer Schoolcraft was home.

11 Q. Who was adamant?

12 A. The landlord.

13 Q. Did you have any discussions
14 with either the landlord or the landlady?

15 A. No.

16 Q. Were you present when anybody
17 else had any discussions with either the
18 landlord or the landlady?

19 A. After they gave the key to
20 Captain Lauterborn, they stepped back.
21 Chief Marino was handling the scene. He
22 was the highest ranking.

23 Q. Were you present when
24 Lauterborn was discussing getting the key
25 from the landlord?

1 S. MAURIELLO

2 Q. When you went into the
3 apartment, you saw he was laying on his
4 bed and he hadn't hurt himself, right?

5 MS. PUBLICKER METTHAM:

6 Objection.

7 A. We still have to do an
8 investigation why he left, yes.

9 Q. Going to that, what authority
10 can you point me to that authorizes you
11 or anybody else in the apartment to
12 direct him to go back to the precinct to
13 conduct some sort of investigation?

14 A. That's what was said. Chief
15 Marino said we were going to conduct an
16 investigation and bring him back to the
17 precinct so....

18 Q. So Chief Marino told you that's
19 what you guys were going to do?

20 A. That's what he said when they
21 huddled up. If he's not safe, God forbid
22 if he is not hurt, if he is not coming
23 because he wanted to leave work, we were
24 going to bring him back for an
25 investigation.

1 S. MAURIELLO

2 Q. What is the authority for that
3 course of conduct?

4 A. I don't know the authority.

5 Q. What is the authority, the
6 patrol guide procedure, administrative
7 procedure, something else that authorizes
8 commanding officers to go into somebody's
9 house and take them back for an
10 investigation into their precinct?

11 A. We went there because we
12 thought he hurt himself.

13 Q. You're not answering my
14 question, Inspector.

15 I want know what authority you
16 believed exists which authorized you,
17 Marino, or anybody else to go into
18 Schoolcraft's apartment and order him to
19 return to the precinct for an
20 investigation?

21 A. Officially, he's still on duty.
22 He left work. He's still an on-duty MOS.
23 He's not off duty. He's on duty. He
24 left without permission. He's an on-duty
25 MOS. There is an investigation to be

1 S. MAURIELLO

2 done.

3 Q. Right.

4 A. It's not like he stayed home
5 and never showed up to work and he was
6 off duty and never came to work. He
7 left. He was suppose to be on duty, just
8 walked out.

9 Q. Do you have a right to arrest
10 somebody for going off duty?

11 MR. KRETZ: Objection.

12 A. First of all, I don't know what
13 you're saying about arresting. There was
14 no arrest there. Second of all, it was
15 at his apartment. Third of all, we went
16 there because we thought he hurt himself.
17 You know that, I know that. You heard
18 his tapes how he set it up. All right.
19 You want to come over here and slant to
20 that, it's the farthest thing from the
21 truth.

22 Q. I don't want to argue with you,
23 Inspector, I would like to get some
24 answers to some of my questions.

25 The question I had on the table

1 S. MAURIELLO

2 that I don't think you answered: Can you
3 identify any authority in the patrol
4 guide, administrative guide, or any place
5 else that authorizes you to or Chief
6 Marino or anybody else at the scene to
7 remove or order Officer Schoolcraft to
8 return to the precinct against his will?

9 A. He is still an on-duty member
10 of service.

11 Q. I'm sorry?

12 A. He's an on-duty member of
13 service. He's still on duty.

14 Q. That's your answer to the
15 question?

16 A. We went there 'cause we thought
17 he hurt himself. That's it. I don't
18 know off the top of my head what rule or
19 procedure. We went there because we
20 thought he hurt himself.

21 Q. Is that your answer to my
22 question?

23 A. Yes.

24 Q. During the huddle before the
25 entry, am I correct there was a

1 S. MAURIELLO

2 discussion about what you are going to do
3 as a group if Officer Schoolcraft was
4 inside the apartment and he was
5 physically seeming fine, right?

6 A. Yes.

7 Q. Who said what about that?

8 A. Chief Marino.

9 Q. What did Chief Marino say?

10 A. We were here to make sure he
11 didn't hurt himself, God forbid he hurt
12 himself. If we go in there and we
13 realize he didn't hurt himself, he was
14 playing a game, he left work, then he has
15 to go back to the precinct and conduct an
16 investigation with GOs.

17 Q. What did you mean by GOs?

18 A. Getting interviewed on the tape
19 under oath. They get the department
20 lawyer to come and sit there with you.
21 They interview you: Why did you leave?
22 Why this? It's an investigation.

23 Q. Is it your understanding that
24 the police department has the authority
25 to compel an officer to go forward with

1 S. MAURIELLO

2 that type of investigation on the spot
3 against that person's will?

4 MS. PUBLICKER METTHAM:

5 Objection.

6 A. I wasn't in the apartment. I
7 don't know happened afterward. I'm
8 telling you we went there to make sure he
9 was all right.

10 Q. Had you ever before directed an
11 officer to return to the precinct or the
12 command for an investigation?

13 A. Yes.

14 Q. How many times did that happen?

15 A. Numerous times: Off-duty
16 incidents, an allegation a wife said
17 something MOS did, the husband. You
18 bring both parties in and you find out,
19 especially, when there is a weapon
20 related to it.

21 Q. On any of those occasions, did
22 any of members of service refuse to go?

23 A. No.

24 Q. Am I correct this is the first
25 time that an officer was ordered to go

1 S. MAURIELLO

2 told Lieutenant Brosschart to go with him
3 in the ambulance.

4 Q. Did Officer Schoolcraft say
5 anything that you heard?

6 A. No.

7 Q. Did anybody say anything to
8 him?

9 A. Not that I know of.

10 Q. What happened next?

11 A. Everybody came out. We got in
12 the car, went back to the precinct to
13 start the investigation.

14 Q. Am I correct that it was back
15 at the precinct, it was Brooklyn North
16 investigations, those three officers; is
17 that correct?

18 A. Yes.

19 Q. And Chief Marino?

20 A. Yes.

21 Q. And Captain [sic] Brosschart?

22 A. No. Captain Lauterborn.

23 Q. Captain Lauterborn was there?

24 A. Yes.

25 Q. Is that correct?

1 S. MAURIELLO

2 A. Yes.

3 Q. And who else?

4 A. Myself.

5 Q. And was Crawford also at the GO
6 or the PG afterwards?

7 A. No.

8 Q. Who else was at the
9 investigation at the precinct?

10 A. I think they interviewed two
11 people: Sergeant Hoffman or Officer
12 Rodriguez or Reyes.

13 Q. Was anybody else interviewed?

14 A. Not that I know of.

15 Q. It was at that meeting there
16 was a discussion about the fact that
17 Officer Schoolcraft had a tape recorder;
18 is that correct?

19 A. Yes.

20 Q. Who mentioned that?

21 A. Brooklyn investigations might
22 have mentioned it.

23 Q. That was the first time that
24 you heard anybody discuss the fact that
25 Officer Schoolcraft had a tape recorder?

1 S. MAURIELLO

2 A. Yes.

3 Q. How long did this PG or GO
4 last?

5 A. I don't recall, not too long.
6 They have to wait for union
7 representation and lawyers to show up.
8 Once the interviews were over, I left.

9 Q. And these are lawyers for the
10 people being interviewed?

11 A. Yes.

12 Q. Did you have any discussions
13 either during that day or that night with
14 Lieutenant Caughey?

15 A. I believe Lieutenant Caughey
16 calls me up on Sunday afternoon when I
17 was off.

18 Q. The next morning?

19 A. Afternoon.

20 Q. The next afternoon?

21 A. Or night, yeah.

22 Q. But that day you did not speak
23 to him?

24 A. No.

25 Q. Did you speak to anybody at IAB

1 S. MAURIELLO

2 that day, October 31, 2009.

3 A. No.

4 Q. You didn't speak to Astor?

5 A. No.

6 Q. Did you ask anybody to speak to
7 Astor on your behalf?

8 A. No. I have no relation with
9 Astor.

10 Q. What did you discuss with
11 Caughey Sunday afternoon?

12 A. He called up. He said he heard
13 what happened. I said, "Officer
14 Schoolcraft left work. He didn't feel
15 well. He just left without permission.
16 He went back to his house. He was AWOL.
17 He was physically restrained by
18 investigations, and he went to the
19 hospital."

20 Q. That's what you told Caughey?

21 A. Yeah.

22 Q. What did Caughey tell you?

23 A. He said that day he scratched
24 him and took his memo book, scratched him
25 and handed it back to him later on.

1 S. MAURIELLO

2 Q. Did Caughey say anything else
3 to you?

4 A. He said -- with that he said,
5 "I wondered because I scratched him. Did
6 that have an effect why he left the
7 precinct?"

8 I said, "No, he left because he
9 said he was sick." That was it.

10 Q. What did you understand Caughey
11 to be saying when he said did the
12 scratching have an effect on why Officer
13 Schoolcraft left the precinct?

14 A. I don't understand. I said,
15 "He went sick. It was a bizarre night."
16 And that was it. He hung up.

17 Q. Did Caughey tell you that he
18 thought that maybe he intimidated
19 Schoolcraft?

20 A. No, he did not say that.

21 Q. Did he suggest that to you?

22 MS. PUBLICKER METTHAM:

23 Objection.

24 A. No.

25 Q. Did Caughey tell you that he

1 S. MAURIELLO

2 threatened Schoolcraft?

3 A. No, he did not.

4 Q. Did Caughey tell you that he
5 made a copy of Schoolcraft's memo book?

6 A. Not that night. He didn't tell
7 me that night.

8 Q. Did he tell you that night that
9 he made a photocopy of Officer
10 Schoolcraft's memo book and put it your
11 desk drawer?

12 A. Not that night. When I came
13 into work that Monday.

14 Q. How did you communicate with
15 Caughey on Sunday afternoon?

16 A. He called me.

17 Q. On your cell phone?

18 A. I believe job phone.

19 Q. Job cell phone?

20 A. I believe.

21 Q. What is the phone number
22 associated with that phone number?

23 A. I don't know. His cell number
24 or his home number. I don't even know.

25 Q. But you got it on your

1 S. MAURIELLO

2 department-issued BlackBerry, right?

3 A. Should be.

4 MR. SMITH: I going to call for
5 the production of the records
6 pertaining to calls, texts, emails,
7 received or sent from Inspector
8 Mauriello's cell phone or BlackBerry
9 for the days October 31, November 1,
10 November 2, November 3, and November
11 4, 2009.

12 MR. KRETZ: Usual instructions,
13 put it in written, please; and we will
14 take it under advisement.

15 Q. So am I correct as of the time
16 that you went into Officer Schoolcraft's
17 apartment on October 31, you were unaware
18 that Officer Schoolcraft had made any
19 reports of misconduct at the eight one to
20 IAB?

21 A. That's correct.

22 Q. In your statements to IAB,
23 Exhibit 47, at page 4938 --

24 MS. PUBLICKER METTHAM: Again,
25 we going into a confidential portion

1 S. MAURIELLO

2 in the transcript.

3 MR. SMITH: Let's label that
4 part confidential.

5 MR. KOSTER: What time is it?

6 MR. KRETZ: We are at seven
7 hours. We can finish this line of
8 questions, but I was just making the
9 observation if less time was spent on
10 the color of people's jackets and
11 shirts and more on matters of
12 substance. I have done my absolute
13 utmost not to intrude on your
14 examination. And so seven hours it is
15 plus a few minutes to finish this line
16 of questions.

17 MR. SMITH: I'm not sure I agree
18 with the seven hours. I certainly
19 don't agree with the characterization
20 with less time or more time spent on
21 other matters, but rather than wasting
22 more time debating that, I will finish
23 this line of questioning, and we will
24 discuss how we want to proceed if we
25 can reach an understanding.

1 S. MAURIELLO

2 [Whereupon, the following is
3 deemed confidential:]

4 Q. I direct your attention to page
5 4938 of your PG it's also page 51. On
6 line 9 --

7 MS. PUBLICKER METTHAM: This
8 portion should be confidential.

9 MR. SMITH: Yes.

10 Q. On line 9, aren't you saying
11 here that Caughey called you that night?

12 A. I got confused. It was the
13 next night.

14 Q. So what you told IAB is
15 incorrect, but what you told me is
16 correct?

17 A. Yes, IAB knows that.

18 Q. How do you know that?

19 A. They know it. They interviewed
20 other people probably too.

21 Q. Did you correct that statement?

22 A. It happen the next day. He
23 called me.

24 Q. You're not answering my
25 question. Did you correct the statement?

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S. MAURIELLO

A. I didn't get a chance to
correct the statement.

[Whereupon, the following is
deemed not confidential:]

1 CONTINUED- STEVEN MAURIELLO

2 feeling upset stomach or what.

3 Q. Are you familiar the building
4 120 Chauncey Street?

5 A. Yes, I am.

6 Q. Is that a dangerous building?

7 A. Yes.

8 Q. While you were at the command at
9 the 81, there had been shots fired at that
10 building, right?

11 A. Been shots fired, numerous
12 people shot, people scared. There was a cop
13 shot at.

14 Q. When when was a cop shot at?

15 A. It was in the summer. I forget
16 the date, but --

17 Q. Summer of what?

18 A. '08 or '09. I don't recall.

19 Q. Who was the cop?

20 A. Officer Freanelli.

21 Q. What's an I09?

22 A. Interim order nine, I think it
23 is.

24 Q. What's is it referring to?

25 A. Something with the -- I don't